

**IN THE UNITED STATES COURT OF FEDERAL CLAIMS
BID PROTEST**

AMAZON WEB SERVICES, INC.,)	
)	
Plaintiff,)	
)	
v.)	No. 19-1796C
)	(Judge Patricia E. Campbell-Smith)
THE UNITED STATES,)	
)	
Defendant,)	
)	
and)	
)	
MICROSOFT CORPORATION,)	
)	
Intervenor-defendant.)	

JOINT STATUS REPORT AND MOTION TO AMEND SCHEDULE

Pursuant to the Court’s order dated January 23, 2020 (ECF No. 131), the parties respectfully provide this status report regarding additions to the administrative record. As the Court described, on January 20, 2020, plaintiff, Amazon Web Services, Inc. (AWS), filed a motion to complete the administrative record (ECF No. 127). This motion alleges that the administrative record in this case is incomplete, and requests that various documents or categories of documents be added to the administrative record.

As defendant, the United States, and intervenor-defendant, Microsoft Corporation, intend to explain in forthcoming responses to AWS motion – to be filed, pursuant to the Court’s rules and its January 23, 2020 order, by February 3, 2020 – the United States and Microsoft disagree with AWS’s position on the appropriate contents of the administrative record. Indeed, the United States has stated that it does not intend to produce additional documents in response to most of the categories of documents that AWS requests be added to the administrative record. The United States does, however, intend to correct the administrative record with some

additional documents that it inadvertently omitted from its previous filing, including, for example, all evaluation notices. In addition, the United States will provide other documents, which are already part of the administrative record in portable document format (PDF), in their native Microsoft Excel file format, at AWS's request. The United States intends to move for leave to amend the administrative record by Friday, January 31, 2020.

AWS reserves the right to seek further relief with respect to the Administrative Record based on the Government's production of additional materials. The United States also states that one category of documents raised in AWS's Motion to Complete the Record that it intends to produce, if possible, are the audit logs from the Factor 8 Demonstrations. The United States also states, however, that it does not currently have access to those logs, but will endeavor to obtain access and timely provide them, though likely not by January 31, 2020.

Separately, the United States requests that the Court amend the briefing schedule with respect to the briefing on AWS's Motion for a Temporary Restraining Order and Preliminary Injunction. The parties understand and appreciate the constraints under which the Court is operating in preparing for a lengthy trial beginning on February 18, 2020. *See* Order dated January 23, 2020, ECF No. 131, at 1-2. Nevertheless, AWS's lengthy motion raises a number of highly technical allegations, some of which were presented for the first time in this litigation in AWS's January 22, 2020 motion. Although the United States can now clearly state its position that these allegations have no merit, it requires additional time to prepare fulsome responses with citation to the voluminous record to assist the Court in rendering its determination. Being mindful of the Court's schedule, the United States respectfully request a two-day extension of its deadline to file its response to AWS's motion, until January 31, 2020. Microsoft, likewise,

requests that its deadline also be extended by two days, such that it also will be required to file its response on January 31, 2020.

AWS does not object to extending the due date for the United States and Microsoft to file their opposition briefs to AWS's Motion for a Temporary Restraining Order and Preliminary Injunction from January 29, 2020 to January 31, 2020, so long as the Court grants a similar extension to the due date for AWS's corresponding Rely Brief, from February 3, 2020 to February 5, 2020.

In light of the proposed two-day extension of the conclusion of briefing on AWS's motion, the parties understand that the Court may likewise require an additional two days to decide the matter. As such, in the event that the Court requires until February 13, 2020 to issue its ruling on AWS's Motion for a Temporary Restraining Order and Preliminary Injunction, the Department of Defense (DoD), despite its consistent and unchanged position that performance is urgently needed in support of nation security, will agree not to proceed with the issuance of substantive task orders on the Joint Enterprise Defense Infrastructure (JEDI) contract until February 14, 2020. We note that, although DoD has not previously committed to a stay of performance, it has stated that, while various preparatory activities were proceeding and would continue, no substantive task orders would be issued until February 11, 2020.

The United States, therefore, respectfully requests that the Court amend the schedule previously issued in its January 15, 2020 order (ECF No. 115), as stated above.

s/ Kevin P. Mullen

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